

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

STATE OF TEXAS,
CARMEN ROBLES FROST,
Plaintiffs,

v.

XAVIER BECERRA, in his official capacity
as Secretary of Health and Human Services;
RACHEL LEVINE, in his official capacity
as Assistant Secretary for Health; JESSICA
SWAFFORD MARCELLA, in her official
capacity as Deputy Assistant Secretary for
Office of Population Affairs; OFFICE OF
THE ASSISTANT SECRETARY FOR
HEALTH; UNITED STATES
DEPARTMENT OF HEALTH & HUMAN
SERVICES; UNITED STATES OF
AMERICA,
Defendants.

No. 2:24-cv-00159

MOTION FOR EXTENSION OF TIME

Plaintiffs, the State of Texas and Carmen Robles Frost, respectfully request an additional 90-day extension of time to file their Response to Defendants' Motion to Dismiss. In support, Plaintiffs respectfully show the Court as follows:

I. STANDARD OF REVIEW

"When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion if . . . a request is made before[] the

original time or its extension expires.”¹ “The good cause standard requires ‘the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.’”² “Rule 6(b)(1)(A) gives the court wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed or prior to the expiration of the period as extended by a previous order.”³ “[A]n application for extension of time under Rule 6(b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.”⁴

II. ARGUMENT

Plaintiffs’ Response to Defendants’ Motion to Dismiss is currently due November 15, 2024. Plaintiffs seek a 90-day extension, creating a new deadline of February 13, 2025. Incoming changes in the presidential administration have prompted Plaintiffs to reevaluate next steps in this case. Plaintiffs are considering the best path forward in this case and are in discussions to join additional plaintiffs to this suit and seek leave to amend their complaint. Accordingly, Plaintiffs respectfully request an additional extension of time to respond to Defendants’ Motion to Dismiss. This extension is not sought for delay, and a 90-day extension will not affect any scheduling order. Defendants’ counsel is unopposed to an additional two-week extension but opposed to a 90-day extension.

¹ Fed. R. Civ. P. 6(b)(1); *see also* Fed. R. Civ. P. 16(b)(4) (applying the same good cause standard for modifications to a schedule).

² *S&W Enters., L.L.C. v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003).

³ Charles Alan Wright & Arthur R. Miller, 4B Fed. Prac. & Proc. Civ. § 1165 (4th ed. April 2017).

⁴ *Id.*

III. PRAYER

Plaintiffs respectfully submit that the circumstances described in this motion constitute good cause. As such, Plaintiffs respectfully ask the Court for a 90-day extension on their response deadline. If granted, the response deadline would be moved to February 13, 2025.

Dated: November 15, 2024

Respectfully submitted.

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**COUNSEL FOR CARMEN ROBLES
FROST**

COUNSEL FOR STATE OF TEXAS

CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for Defendants on November 12, 2024 and November 13, 2024, and counsel for Defendants provided the following statement:

“Defendants oppose the plaintiffs’ request for an additional 90-day extension of their deadline to respond to the motion to dismiss for lack of jurisdiction. Defendants did not oppose plaintiffs’ first request for a three-week extension, provided that plaintiffs’ request included a similar extension of the defendants’ time to reply. The Court thereafter granted that extension. Defendants would not oppose a second, brief extension of time if the plaintiffs need an additional week or two for their response, provided that the request similarly includes an equal extension of the defendants’ deadline to reply. But a second extension of an additional 90 days would unduly delay proceedings on the defendants’ motion to dismiss for lack of jurisdiction, which has been pending since October 4. If the plaintiffs require more time to evaluate their case, the plaintiffs could voluntarily dismiss the case without prejudice under Rule 41.”

/s/ Amy S. Hilton

CERTIFICATE OF SERVICE

I certify that this document was filed via CM/ECF on November 15, 2024, providing service to all counsel of record.

/s/ Amy S. Hilton